IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

WP(C).No. 26602 of 2004(P)

PETITIONER:

DEEPA, SANKARA VILASOM, KARIKKODE,
KOLLAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:
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1. THE AUTHORISED OFFICER, THE QUILON CO-OPERATIVE BANK LTD.NO.960, HEAD OFFICE, Y.M.C.A. ROAD, KOLLAM-1.

2. THE QUILON CO-OPERATIVE URBAN BANK LTD.NO.960, HEAD OFFICE, Y.M.C.A. ROAD, KOLLAM-1, REPRESENTED BY ITS SECRETARY.

3. THE SPECIAL SALE OFFICER, THE QUILON CO-OPERATIVE URBAN BANK LTD.NO.960, HEAD OFFICE, Y.M.C.A. ROAD, KOLLAM-1.

4. G. SUNDARARAJAN, SANKARA VILASOM, KARIKKODE, KOLLAM. (FROM CHITTOOR VEEDU, PATTATHANAM, KOLLAM.)

5. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOLLAM.

BY ADV. SRI.N.DHARMADAN (SR.)
SMT.R.RANJINI
SPL.GOVT.PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.26602/04

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE NOTICE DTD. 24-06-04**
EXT.P2	**TRUE COPY OF THE ORDER DTD. 25-08-03 PASSED BY THE KERALA CO-OPERATIVE TRIBUNAL, TRIVANDRUM.**
EXT.P3	**TRUE COPY OF THE JUDGMENT IN A PROCEEDING DTD. 28/2/03**
EXT.P4	**TRUE COPY OF THE RECEIPT DTD. 25-5-02**
EXT.P5	**TRUE COPY OF THE RECEIPT DTD. 11-6-01**
EXT.P6	**TRUE COPY OF THE NOTICE DTD. 15-11-03 FROM R1.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(c).No.26602 OF 2004

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Dated this the 27th day of September, 2007

JUDGMENT

Petitioner is a guarantor in respect of a loan availed by the 4th respondent. Petitioner challenges Exts.P1, P2 and P6. There is a demand to levy interest at the rate of 6% per annum. Ext.P2 is the order of the Tribunal allowing the bank to realise the amount due with 19% interest. Ext.P6 is the notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. Petitioner would contend that Co-operative Bank cannot invoke the provisions of the Securitisation Act. Section 13 of the Act is available to a secured creditor. Secured creditor is defined as including the bank and the banking company. Undoubtedly, Co-operative Bank is not a banking company , but since the definition of secured creditor includes bank also and there is a notification issued including the Co-operative Bank also as a Bank under Section 2(C) (V), it would fall within the ambit of the word “Bank” and therefore it would be a secured creditor under Section 13 of the Securitisation Act.

In such circumstances, I reject the argument of the petitioner. Then further question relating to interest. Learned counsel for the respondent-Bank submits that if the petitioner approaches the respondent-Bank, the Bank will consider the question of reduction of interest as permissible. In the light of this, the writ petition is disposed of directing that if the petitioner remits a sum of Rs. 75,000/- (Rupees Seventy Five Thousand only) and files a representation before the respondent-Bank within a period of two weeks from today, the respondent-Bank will consider the same and take a decision and communicate the same to the petitioner within a period of three weeks from the date of filing of the representation. Till such time as a decision is taken, recovery steps will be kept in abeyance. If the petitioner does not file a representation within two weeks from today and remits the amount of Rs. 75,000/- along with the representation, the petitioner will lose the benefit of this judgment and it is open to the respondent-Bank to proceed against the petitioner in accordance with law.

(K.M.JOSEPH, JUDGE)

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